

## Assembly Bill No. 2678

### CHAPTER 954

An act relating to public employees' retirement.

[Approved by Governor September 26, 2002. Filed  
with Secretary of State September 27, 2002.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2678, Aaenstad. Public employees' retirement: death benefits.

The Public Employees' Retirement Law prescribes benefits that are payable to the surviving spouse of a member who, at the time of death, had attained the minimum age for voluntary service retirement. Those benefits are applicable to the employees of a contracting agency only after the contracting agency has amended its contract to be subject to those benefits.

This bill would authorize Butte County to amend its contract on or before February 1, 2003, to authorize the surviving spouse of a member to receive specified additional death benefits if the member was eligible to retire and was a public safety officer killed in the line of duty between July 26, 2001, and February 1, 2003.

*The people of the State of California do enact as follows:*

SECTION 1. (a) Notwithstanding any other provision of law, the surviving spouse of a local member of the Public Employees' Retirement System may receive an allowance as described in subdivision (b) if all of the following criteria are met:

(1) The member had attained the minimum age for voluntary service retirement applicable to the member in his or her last employment preceding death and was a public safety officer killed in the line of duty on or after July 26, 2001, and before February 1, 2003.

(2) The surviving spouse is eligible to receive an allowance pursuant to Section 21546 of the Government Code or a special death benefit in lieu of that allowance and would have been eligible for the allowance described in Section 21548 of the Government Code if the member's contracting agency had, prior to the member's death, elected to be subject to that section by amendment to its contract in the manner prescribed for approval of contracts.

(3) The member's contracting agency was, at the time of the member's death, in the process of negotiating a contract amendment electing to be subject to Section 21548 of the Government Code.

(b) (1) The surviving spouse of a local member who meets all of the criteria of subdivision (a) may elect to receive, in lieu of an allowance under Section 21546 of the Government Code or a special death benefit, an allowance that is equal to the amount that the member would have received if the member had been retired from service on the date of death and had elected optional settlement 2 and a waiver under Section 21459 of the Government Code.

(2) If the member made a specific beneficiary designation under Section 21490 of the Government Code, the allowance under this section shall be based only on that portion of the amount the member would have received described in paragraph (1) that would have been derived from the nonmember spouse's community property interest in the member's contributions and service credit.

(3) The allowance provided by this section shall be payable as long as the surviving spouse lives. Upon the death of the surviving spouse, the benefit shall be continued to minor children, as defined in Section 6500 of the Family Code, or a lump sum shall be paid as provided under circumstances specified in Section 21546 of the Government Code or in Sections 21541 and 21543 of the Government Code, as the case may be.

(4) If the death of the member occurred prior to the date this section becomes applicable to the contracting agency, the allowance payable to the surviving spouse pursuant to this section shall be increased by an amount, amortized over the surviving spouse's life expectancy, equal to the difference between the benefits the surviving spouse would have received pursuant to this section if this section had been applicable on the date of the member's death and the death benefits actually received by the surviving spouse prior to the date this section became applicable.

(c) Any unfunded liability resulting from this section shall be paid by the employer.

(d) This section may not apply to any contracting agency nor to the employees of the agency unless and until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts, except that an election among the employees is not required.

(e) This section shall only apply to Butte County and only if that county amends its contract with the Public Employees' Retirement System as described in subdivision (d) on or before February 1, 2003.

